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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,410	11/24/2003	Richard Meehan	12406/58	2646
26646	7590	04/16/2008		
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER FUREMAN, JARED	
			ART UNIT	PAPER NUMBER
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			04/16/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/723,410	<b>Applicant(s)</b> MEEHAN ET AL.	
	<b>Examiner</b> Jared J. Fureman	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-86 is/are pending in the application.
- 4a) Of the above claim(s) 50-68 and 72-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-49, 69-71 and 78-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/03/2004, 11/09/2004, 05/16/2005, 07/16/2007</u> .          | 6) <input type="checkbox"/> Other: _____                          |



### **DETAILED ACTION**

Receipt is acknowledged of the amendment filed on 12/31/2007, which has been entered in the file. Claims 39-86 are pending.

### ***Election/Restrictions***

1. Applicant's election with traverse of Group IV, claims 39-49, 69-71, 78-86 in the reply filed on 12/31/2007 is acknowledged. In view of Applicant's amendments to claims 40-49, these claims have been rejoined and are included in group IV. The traversal is on the ground(s) that there are embodiments in each of the groups defined in the Office Action which also are contained in each of the other groups, accordingly, the groups are not believed to be separate and distinct species (see page 8 of the amendment filed on 12/31/2008). This is not found persuasive because, while the specification may disclose that the species are usable together, the species have been claimed as separate and distinct inventions. The individual species, as claimed, do not require each of the other species as claimed. It is noted that Applicant has not argued that the claims directed to each of the species are not patentably distinct. The fact that Applicant has presented claims drawn to each individual species serves as evidence that Applicant considers each species to be a separately patentable invention.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 50-68 and 72-77 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable

generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/31/2007.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 39-49, 69-71 and 78-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behm et al (US 2002/0119817 A1, cited by Applicant) in view of Paulsen (US 2003/0186739 A1, cited by Applicant) and Rock, Jr. et al (US 2004/0111326 A1).

Behm et al teaches a method of dispensing game tickets and a method of tracking game tickets, comprising: reading a ticket bar code (26, figures 2A and 2B) from a game ticket (25, figures 2A and 2B); activating the game ticket based on the bar code (see paragraphs 65 and 66); receiving a validation request for the game ticket (at the time of redeeming a lottery ticket, for example); and reading a ticket bar code of a game ticket based on the request; sending information contained in the ticket verifier toward a host computer (an off-site lottery computer, for example); receiving a validation reply to the ticket verifier (such as the validity of the lottery ticket); updating a database in accordance with the validation message, wherein the validation message indicates

that validation is authorized, the method further includes updating the database to indicate that the game ticket has been cashed (the off-site lottery computer includes a database to track which tickets have been dispensed and cashed, see paragraphs 65 and 66, for example); wherein the game ticket further comprises: a substrate including game data and a bar code coupled to the substrate, the bar code including ticket data (see figures 2A and 2B); while not specifically shown in Behm et al, game ticket consumables such as paper stock, game ticket writing implements and game ticket marketing material are necessarily present in order to create and promote the game tickets 25; wherein the game ticket consumable is a preprinted instant win lottery ticket (see paragraph 65); wherein the ticket data includes a game number (27, figure 2B) that corresponds to the game ticket ; wherein the ticket data includes a void if removed number that corresponds to the game ticket (typical instant-win lottery tickets include a void if removed number); wherein the ticket data includes a theme description that corresponds to the game ticket (the game identifier 27 represents a theme description by identifying the type of ticket); wherein the ticket data includes a play style that corresponds to the game ticket (the game identifier 27 represents a play style by identifying the type of ticket); wherein the ticket data includes a price point that corresponds to the game ticket (the game identifier 27 represents a price point by identifying the type of ticket); wherein the ticket data includes a validation code (26, figures 2A and 2B), the game ticket further including a back-up validation code coupled to the substrate (there is a bar code 26 located on the front and rear of the ticket 25, thus one of the bar codes 26 serves as a back-up); wherein the back-up validation code

includes a bar code (26, figures 2A and 2B); wherein the back-up validation code includes a series of digits (the bar code 26 includes a series of digits, see figures 2A and 2B).

Behm et al fails to specifically teach: reading a radio frequency identifier (RFID)/transponder from a game ticket or game ticket consumable; activating the game ticket based on the ticket RFID/transponder; wherein the transponder includes: a memory storing the ticket data and an antenna operatively coupled to the memory, the antenna to transmit the ticket data in response to receiving an excitation signal; transmitting an excitation signal, the excitation signal to cause the game ticket to transmit the ticket RFID and detecting the transmitted ticket RFID; wherein the ticket data includes player account information;

Paulsen et al teaches a method of dispensing and validating game tickets (ticket vouchers), the game tickets including a radio frequency identifier (a radio frequency identifier tag) that defines a validation code in a memory (a radio frequency identifier tag necessarily includes a memory) of the game ticket; and sending information contained in the ticket RFID and an activation request toward a host computer (EZ Pay server 310, for example); transmitting an excitation signal (when reading of the RFID tag is desired, for example), the excitation signal to cause the game ticket to transmit the ticket RFID; and detecting the transmitted RFID; reading a ticket radio frequency

identifier (RFID) from a memory of a game ticket based on a validation request; a transponder (a radio frequency identifier tag typically includes a transponder, ROM and antenna) coupled to the substrate (see at least paragraph 69).

In view of Paulsen et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the method as taught by Behm et al, reading a radio frequency identifier (RFID)/transponder from a game ticket or game ticket consumable; activating the game ticket based on the ticket RFID/transponder; wherein the transponder includes: a memory storing the ticket data and an antenna operatively coupled to the memory, the antenna to transmit the ticket data in response to receiving an excitation signal; transmitting an excitation signal, the excitation signal to cause the game ticket to transmit the ticket RFID and detecting the transmitted ticket RFID; wherein the ticket data includes player account information; since the use of radio frequency identification tag and bar codes are art recognized functional equivalents for storing validation codes of a game ticket (Paulsen et al teaches that the ticket voucher may include either a bar code or a radio frequency identification tag for storing information, see paragraph 69).

Behm et al as modified by Paulsen et al fails to specifically teach: responsive to the activation of the game ticket and an inventory level for tickets of the type of the activated game ticket falling below a predetermined threshold, automatically generating



a ticket order for additional tickets; wherein the game ticket is associated with a game ticket that is identical or different from a game associated with the additional tickets; responsive to the reading and an inventory level for the game ticket consumable falling below a predetermined threshold, automatically generating a consumable order for additional consumables.

Rock, Jr. et al teaches a system and method for tracking consumables and automatically generating an order for consumables when the inventory amount of the consumable falls below a predetermined amount (see paragraphs 5, 6, 9-11, 17 and 18).

In view of Rock, Jr. et al's teachings, It would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the method as taught by Behm et al as modified by Paulsen et al, responsive to the activation of the game ticket and an inventory level for tickets of the type of the activated game ticket falling below a predetermined threshold, automatically generating a ticket order for additional tickets; wherein the game ticket is associated with a game ticket that is identical or different from a game associated with the additional tickets; in order to ensure that enough consumables are on hand and prevent running out of consumables, thereby ensuring uninterrupted operation.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 8:00 am - 5:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jared J. Fureman/  
Primary Examiner, Art Unit 2876

April 14, 2008